

Jozef Goldblat

Can Nuclear Proliferation Be Stopped?

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About the Author

Jozef Goldblat holds university degrees in international relations, law, economics and linguistics. He has been studying the problems of arms control since the late 1950s and has been involved in disarmament negotiations in various capacities, including service for the United Nations. He was active in the international commissions verifying compliance with the armistice agreements in Korea and Vietnam. In 1980 he assisted the UN Secretary-General in preparing a report on a comprehensive nuclear test ban, and from 1998 to 2006 he participated in the drafting of the Semipalatinsk Treaty, which established a nuclear-weapon-free zone in Central Asia.

He is Vice-President of the Geneva International Peace Research Institute (GIPRI) and Resident Senior Fellow at the United Nations Institute for Disarmament Research (UNIDIR) in Geneva. He lectures at universities and is the author or editor of 43 books, 105 essays and 145 newspaper and journal articles on truce supervision, arms race and disarmament problems, published in Poland, Sweden, Switzerland, France, England, India, Norway, Japan, Spain and the United States. From 1969 to 1989 he directed the arms control and disarmament research programme at the Stockholm International Peace Research Institute (SIPRI).

His book *Arms Control Agreements: A Handbook* (Taylor & Francis, 1983) received the CHOICE Magazine Award in 1984. In 1987 Jozef Goldblat was awarded the Pomerance Award by the NGO Committee on Disarmament in recognition of his scholarship in the field of disarmament and arms control. In 2006 he received the GCSP (Geneva Centre for Security Policy) Award for his achievements in the field of international and human security and was granted, by the President of Poland, the Knight's Cross of the Order of Merit for his contribution to the cause of international peace. In 2007 the President of the Republic of Italy bestowed upon Dr. Goldblat the title of the Knight of the Order to the Merit of the Italian Republic for the promotion of international peace and security through disarmament, arms reduction and non-proliferation.

Avant-propos

Au nom du GIPRI, Jozef Goldblat, grand connaisseur des méandres des négociations et des accords internationaux portant sur la maîtrise des armements, pose la question angoissante de l'arrêt de la prolifération des armes nucléaires. Est-il possible ? Comment l'assurer ?

Depuis plus de trente-cinq ans, un traité, le traité de non-prolifération (TNP), tente en vain d'empêcher de nouveaux pays d'accéder à la maîtrise nucléaire militaire. Certes, ils ne sont pas nombreux les nouveaux, mais combien d'autres attendent de se faufiler dans les mailles du filet ? Jozef Goldblat montre patiemment dans son étude les nombreux trous de ce malheureux filet. Il met indirectement en évidence le manque de volonté politique des négociateurs, de tous les négociateurs, mais, avant tout, celui des pays dotés d'armes nucléaires, qui ne font que des efforts plus que dérisoires vers le désarmement auquel ils se sont engagés.

Quel sens et quel avenir peut avoir une interdiction qui ne s'applique pas à chacun ? Limiter une prolifération ne peut jamais être qu'une mesure provisoire avant l'élimination définitive d'un objet dangereux, qui ne devrait pas exister. Le côté temporaire du TNP est d'ailleurs exprimé dans son article VI qui annonce que tous se consacreront de bonne foi au désarmement nucléaire, le seul moyen d'ailleurs d'éloigner le monde du gouffre qu'il côtoie. Mais ce provisoire là ressemble à du définitif.

Quel état souverain va-t-il renoncer à l'arme qu'il vient de se procurer si les autres n'y renoncent pas comme ils s'y étaient engagés. Ces derniers, les pays nucléaires, non seulement ne détruisent pas leurs arsenaux, mais au nom de l'entretien cherchent à les renforcer et à les moderniser.

Nous nous retrouvons aujourd'hui dans une situation absurde : les nations du monde se divisent en quatre groupes : les cinq puissances qui disposent légitimement (mais pas à titre définitif) d'armes nucléaires sous le régime du TNP, toutes membres du conseil de sécurité des Nations unies, les pays qui, de fait, disposent d'armes nucléaires, ceux qui souhaitent plus ou moins ouvertement s'en procurer et ceux qui y ont sincèrement renoncé.

En supposant que le TNP devienne un traité universel, parfaitement respecté et conforté d'un système de vérification à toute épreuve, le monde serait-il dans une situation plus sûre ? Oui, à une seule condition, que le mouvement vers le désarmement généralisé se concrétise rapidement. Personne parmi nous ne souhaite que l'Iran devienne nucléaire. Mais, à terme, les cinq grands sont bien plus redoutables et dangereux à cause de la démesure de leurs arsenaux. Personne ne peut prédire comment les sociétés, les empires, les régimes évolueront dans les quelques prochaines dizaines d'années. N'importe où peut survenir un fou qui disposerait de cette puissance destructrice.

Il n'y a de salut à long terme que dans l'élimination totale des armes nucléaires. Il faut avant tout les sortir de la doctrine d'utilisation militaire. Ce n'est pas encore le cas, puisque les états nucléaires entreprennent de vastes programmes de modernisation.

Alors, sauver le TNP ? Oui, mais en exigeant l'application stricte de son article VI.

Nous ne pouvons pas continuer à permettre à certains de jouer dans la cour des grands, un rôle pour lequel ils n'offrent aucune garantie.

Certains prétendent peut-être qu'un stock convenable d'explosif nucléaire pourrait servir, grâce à l'hiver nucléaire qu'il engendrerait, à contrebalancer le réchauffement du climat si celui-ci atteignait un point de non-retour dans une exploitation incontrôlée des sources d'énergie. Ce ne serait qu'une idée farfelue de plus pour se permettre de conserver ces engins et ne pas prendre les mesures propres à ménager le climat. Il ne s'agit pas d'une plaisanterie. Une

telle proposition n'est pas plus absurde que celle qui revient à convaincre les peuples que les armes nucléaires peuvent contribuer de quelque manière que ce soit à leur défense et à leur protection. Tant que les gouvernements responsables ne renonceront pas à propager une illusion aussi fallacieuse, le monde restera à la merci d'un cataclysme difficilement imaginable.

Revenant à la réalité, une longue étude doit être entreprise sur la manière d'assurer la demande en énergie nucléaire de ceux qui ne disposent pas d'autres sources et de garantir l'impossibilité de détourner des matériaux fissiles à toute fin perverse. Cela doit être possible dans un monde en paix économique et sociale. Autre vaste problème !

Jozef Goldblat conclut sur une série de recommandations.

La première est naturellement de tout faire pour sauvegarder le TNP. Il n'est pas une panacée, mais, sans un tel traité, les menaces seraient toujours plus grandes.

La plupart des autres recommandations sont de simple bon sens. Il y a longtemps qu'elles auraient dû être adoptées, comme notamment la ratification par tous du traité sur l'interdiction totale des essais nucléaires (CTBT) ou encore l'élaboration d'un traité sur l'arrêt de production de matière fissile à usage militaire (FMCT). Enfin il faut mettre un terme aux tracasseries qui affectent l'efficacité des contrôles internationaux.

Peut-on espérer qu'elles soient prises en compte lors de la prochaine conférence d'examen ?

Jean-Pierre Stroot
Président du GIPRI

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1. The NPT

From the beginning of the atomic age there has been an awareness that, because of the unprecedented destructiveness of the newly invented weapons, their spread to additional countries would increase the danger to world security. This awareness has led to the development of the nuclear-weapon non-proliferation regime, which encompasses various restrictive rules, as well as specialized institutions, both national and international. The pivotal role in this regime belongs to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which was signed in July 1968 and entered into force in 1970.

1. The NPT

NPT is a unique document in that it prohibits the possession of the most devastating weapons by an overwhelming majority of states, while tolerating the possession of the same weapons, for an undefined period, by a handful of states. In addition to retaining their nuclear arsenals, the nuclear-weapon states (NWS) are free to assist each other in developing nuclear warheads and in testing them, to receive from any state the material necessary to pursue nuclear-weapon programs, to deploy nuclear weapons on the territories of other states, and to decide whether, and to what extent, to accept international controls over peaceful nuclear activities. Thus, the non-nuclear-weapon states (NNWS) assume the main burden of obligation. However, the treaty is not an end in itself. The declared aim of the parties is to pave the way towards nuclear disarmament. The main provisions of the NPT are as follows.

Non-Transfer and Non-Acquisition of Nuclear Weapons

The NWS have undertaken not to transfer “to any recipient whatsoever” nuclear weapons or other nuclear explosive devices or control over them, and not in any way to “assist, encourage, or induce” any non-nuclear-weapon state to manufacture or acquire such weapons or devices. The NNWS states have pledged not to receive nuclear weapons or other nuclear explosive devices or control over them, as well as not to manufacture them or receive assistance in their manufacture.

“Nuclear weapons or other nuclear explosive devices”, the proliferation of which the NPT is meant to prevent, are not defined by the Treaty. A NWS is defined as one that had exploded a nuclear explosive device prior to 1 January 1967. The effect of setting this date was to limit the number of nuclear-weapon states to five, namely, the United States, the Soviet Union, the United Kingdom, France and China, but it later proved difficult to maintain that a state exploding such a device after the set time-limit should continue to be classified as non-nuclear. This question first arose in 1974, when India conducted a nuclear explosion and thereby crossed the formal threshold separating nuclear-weapon from non-nuclear-weapon states. The reiterated assurances by successive Indian governments that they were pursuing only peaceful ends put India in the intermediate class of nuclear-threshold states until 1998, when both India and Pakistan tested nuclear explosive devices. None of these states was formally recognized as a NWS.

Nor is it clear what is meant by the NPT ban on the “manufacture” of nuclear weapons. The unchallenged US interpretation, given in the course of the negotiation of the Treaty, was that facts indicating that the purpose of a particular activity is to acquire a nuclear explosive device would tend to indicate non-compliance. Thus, according to the negotiating record, the construction of an experimental or prototype nuclear explosive device would be covered by

the term “manufacture” as would the production of components relevant only to a nuclear explosive device. However, the NPT does not provide for means to verify whether parties are engaged in developing prototype nuclear devices or weapon components. Research relevant to nuclear weapons and their components is not explicitly prohibited.

Nuclear Fuel Cycle

It is understood that uranium enrichment (increasing the concentration of uranium-235 in uranium through isotope separation) or plutonium reprocessing (separating plutonium from fission products present in spent reactor fuel), as well as stockpiling fissionable material in connection with peaceful nuclear programs of NNWS do not violate the NPT as long as all these activities are under international supervision. However, should a state with nuclear fuel-cycle activities decide to break out from the Treaty, it could put together a nuclear bomb within just a few months. The danger that this may happen is not negligible. Moreover, highly enriched uranium can be found in a number of facilities in NNWS, primarily in research reactors, where they are used for civilian purposes. Several of these sites have enough fissile material to produce an explosive device. Efforts to replace highly enriched uranium with low-enriched uranium in all peaceful nuclear applications have so far proved unsuccessful.

To deal with the above-described dilemma, the following proposal was made by the United States: the NNWS wishing to develop nuclear energy for non-military purposes should undertake not to manufacture, store or reprocess nuclear fuel. The supply of fresh fuel to these NNWS, as well as the retrieval of spent fuel, would be guaranteed “at reasonable prices” by the existing fuel producers. Countries possessing the needed technology would undertake not to supply equipment or fuel for nuclear reactors to those NNWS that had not given up their right to enrich uranium and/or separate plutonium.

This proposal amounts to creating a new distinction among the parties to the NPT, namely, between the NNWS that are engaged in the enrichment of uranium and the separation of plutonium, and those that are not. The former would continue exercising the right to possess an independent peaceful nuclear industry, while the latter would have to rely, in this vital sector of national economy, on the good will of others. An expert group, appointed by the IAEA Director General, suggested that the Agency become a guarantor of fuel supplies, but it is doubtful whether it would be in a position to perform such a Gargantuan task, and whether states would be sufficiently confident of the impartiality and efficiency of the Agency to abstain from a national fuel cycle. On the other hand, if each country operating a nuclear reactor had a full fuel cycle, the international security would be threatened by the risk of further nuclear proliferation among states, as well as by an easier access to weapon-grade material for terrorist organizations.

No international norm restricts the production of tritium for military ends. And yet, this radioactive gas, which boosts the yield of explosions, is a component of modern nuclear weapons. It has a half-life of about 12 years and is regularly replaced.

Another deficiency of the NPT is the lack of an explicit ban on the provision of assistance in the manufacture of nuclear weapons by the non-nuclear-weapon parties to the NPT to non-nuclear-weapon states not party to the NPT. This omission, if taken advantage of, could enhance proliferation. As early as 1968, the Soviet Union and the United States, the powers responsible for the formulation of the relevant clauses of the NPT, expressed the opinion that such assistance would constitute a violation of the Treaty.

Nuclear sharing

In the process of ratification of the NPT by the US Congress, the US Government made a declaration of interpretation, according to which the Treaty would cease to be valid in time of war. In other words, from the start of hostilities, transfer of nuclear weapons or of control over them, as well as their acquisition by non-nuclear-weapon states by other means would cease to be prohibited. This so-called “war reservation” is highly controversial, as it contradicts the essential provisions of the NPT. Nevertheless, the “nuclear sharing” arrangements for participation and co-operation by NATO allies in the use of nuclear weapons in case of war, as developed in the late 1960s, remain in force. War does cancel ipso facto certain treaties previously concluded between the belligerents, especially treaties of a political nature. It should, however, stand to reason that an arms control treaty that imposes restrictions on the possession of a certain category of weapon with a view to minimising the risk of its use must remain in force during armed conflict. The NPT clearly belongs to this category of treaties.

Nuclear Safeguards

Should a non-nuclear-weapon state decide to produce a nuclear weapon, it would need the requisite quantity of weapon-grade fissile material. The availability of this material is of crucial significance; hence the need for international verification. The verification functions are performed by the International Atomic Energy Agency (IAEA), which is an autonomous intergovernmental organization founded in 1957 to promote peaceful uses of nuclear energy. Safeguards, which have been devised by the IAEA, must be able to detect in a timely fashion the diversion of “significant” quantities of nuclear material from peaceful nuclear activities to the manufacture of nuclear explosive devices as well as deter diversion by creating the risk of early detection. Subject to safeguards are plutonium and uranium, the fissionable materials defined in the IAEA Statute, as well as the equipment for their processing, use or production. Neptunium and americium, which could also pose a nuclear proliferation risk, if they were available in separated form and in sufficient quantities, are not covered by that definition.

The IAEA safeguards adopted before the conclusion of the NPT were intended to ensure that nuclear items obtained by non-nuclear-weapon states, with the help of the IAEA or under its supervision, were not used for any military purpose. The safeguards adopted for the NPT made an allowance for the withdrawal from international control of nuclear material destined for non-explosive military purposes. This allowance could be misused because enriched uranium used for the propulsion of ships, especially submarines, is often the same as that used in nuclear weapons. To prevent abuses, special arrangements would have to be made between a state withdrawing the nuclear material in question and the IAEA in order to identify the circumstances under which safeguards would not be applied. The state would have to make it clear that the non-safeguarded material (the quantity and composition of which would have to be known to the IAEA) would not be used for the production of nuclear weapons or other nuclear explosive devices. Safeguards would apply again as soon as the nuclear material was re-introduced into a peaceful nuclear activity. Such verification, however, could be thwarted by claims of military secrecy.

Precise time limits are stipulated in the NPT for the initiation of negotiations for, and the entry into force of, safeguards agreements between the parties and the IAEA. Several dozen states, mostly those without substantial nuclear activities, failed to conclude such agreements in time. In a few cases, when the relevant treaty provision had been ignored, suspicions arose that the basic non-proliferation obligations were being ignored as well. Thus, when North Korea, which was engaged in significant nuclear activities, refused, under varying pretexts,

first to negotiate and later to agree to comprehensive controls over these activities, its refusal was interpreted by many as an attempt to conceal a nuclear-weapon development programme. North Korea eventually concluded the required agreement, but doubts persisted as to whether it had taken advantage of the several years' long delay to extract a significant amount of plutonium from the nuclear fuel irradiated in one of its reactors and to hide it away for weapon purposes. The IAEA was unable to conclude that there had been no such diversion. There is no specific clause in the NPT to deal with such a situation.

The NPT requires safeguards to be implemented in such a manner as to avoid hampering the economic or technological development of the parties or inter-national co-operation in the field of peaceful nuclear activities. This requirement seems to have been met, although there have been occasional complaints that controls complicate the production process or are a burden for enterprises because of the cost and the threat to industrial secrets.

The accumulation of large quantities of readily accessible weapon-usable nuclear material is difficult to safeguard because of measurement uncertainties: the margin of error is dangerously high. In addition to plutonium separated by certain states from spent nuclear power reactor fuel, tons of weapon-grade fissile material will be released as a result of the envisaged dismantlement of Russian and US nuclear weapons. Since the adoption, in 1997, of the Protocol additional to the 1971 safeguards agreements between states parties to the NPT and the IAEA, inspectors are entitled to obtain more information than was previously required, and ask for more intrusive physical access to the states' nuclear fuel cycles. They also have stronger authority to collect environmental samples for laboratory analysis to assist the IAEA in drawing conclusions about the presence or absence of undeclared nuclear material or nuclear activities at a specific location. The Additional Protocol enters into force for individual NPT states upon ratification. It has been gradually adopted by many countries, but even if it were universally adhered to (which is hardly achievable in the foreseeable future) more would have to be done to make possible the detection of clandestine nuclear programmes. The IAEA Statute requires that any special fissionable material in excess of the amount needed for peaceful purposes by member-states be deposited with the Agency. However, proposals for setting up an international plutonium storage (IPS), in compliance with this provision, have not materialized, mainly because of divergent opinions regarding the procedures for withdrawing the stored material.

For many years, the NPT clause which set forth the safeguards requirement had been applied in a way that led to an absurd situation: the non-nuclear-weapon parties to the NPT, those that have formally undertaken not to acquire nuclear weapons, were subject to safeguards covering all their nuclear activities, both current and future, whereas the nuclear activities of states refusing to join the NPT and keeping their nuclear-weapon option open were controlled only partially, by safeguards applying exclusively to imported nuclear material or equipment. A significant part of the nuclear fuel cycle of non-parties could therefore remain unsafeguarded. Several countries concerned about the dangers of nuclear proliferation inherent in this unjustified distinction between foreign and indigenous technology had been seeking to impose on non-parties full-scope safeguards, as comprehensive as NPT-type safeguards, as a condition for nuclear trade. A few suppliers, however, in pursuit of commercial interests, continued providing nuclear material and equipment to countries accepting safeguards only on imported items. They may have thereby contributed, consciously or unconsciously, to the recipients' capabilities to produce nuclear weapons.

In April 1992 a group of nuclear suppliers (NSG) agreed that transfer to a non-nuclear-weapon state of nuclear facilities, equipment, components, material and technology, as specified in the so-called trigger list, should not be authorized unless that state had brought into force an agreement with the IAEA requiring the application of safeguards on all source and

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special fissionable material in its current and future peaceful nuclear activities. The reinforcement of international controls took place in the aftermath of the 1991 Gulf War and the discovery of undeclared nuclear activities in Iraq. In 1993 the above agreement was formally recorded as NSG Guidelines and incorporated into national legislation of the supplier states. It is not, however, binding under international law.

In July 2005, the President of the United States decided--apparently without consulting with US Congress or his NATO allies--that India, being a "responsible" nuclear country, should be granted the benefits it would enjoy if it were a nuclear-weapon party to the NPT. According to the agreement reached on 2 March 2006, India will have the right to import nuclear material and equipment for peaceful purposes without submitting itself to comprehensive IAEA nuclear safeguards that are applied in NNWS. (Only civilian nuclear plants and materials are to be subject to IAEA controls). This decision, launched as a Civil Nuclear Cooperation Initiative (CNCI), reverses the attitude adopted by the United States many years ago to prevent supplies of nuclear technology to non-NPT parties. It may also be considered a breach of the NSG Guidelines, unless the NSG accepts the US proposal to treat India as an exceptional case because of its energy needs and non-proliferation record. The actual reason for the abrupt US policy change is not clear. It may have been motivated by the US intention to establish closer relations with India and to offset the growing military and economic potential of China seen by some US politicians as threatening. The CNCI may seriously weaken the nuclear export controls and harm the entire non-proliferation regime. The US change of the nuclear policy came at a time when UN sanctions were imposed upon Iran, a party to the NPT since 1970, which refuses to suspend its uranium enrichment and plutonium reprocessing activities, and which--unlike India--had not demonstrated its nuclear-weapon capability.

As a *quid pro quo*, India is to assume the same non-proliferation responsibilities and practices as countries recognized as nuclear-weapon states by the NPT. It will uphold a moratorium on nuclear test explosions; it will separate the reactors it uses for power production from those it uses for weapon purposes; it will maintain strict export controls; it will refrain from transferring sensitive nuclear technologies; and it will support negotiations for a fissile material cut-off treaty (FMCT). India also said that it was ready to commence negotiations for a nuclear weapon convention.

However, India has not promised to sign the Comprehensive Test Ban Treaty (CTBT). Nor has it committed itself to halting the production of fissile materials for weapon purposes until an FMCT was concluded. Nor has it undertaken to subscribe to the 2002 Hague Code of Conduct (see section 6) against ballistic missile proliferation. In other words, India will be free to continue manufacturing nuclear weapons and the means of their delivery for an indefinite period of time by using its significant nuclear infrastructure (15 operating nuclear power reactors, eight under construction and many more planned).

The formal non-nuclear-weapon status of North Korea did not change when in 2006 it tested a nuclear explosive device. Israel is generally recognized as possessing nuclear weapons, but, according to the criteria set by the NPT, its status remains non-nuclear.

NWS are not obligated by the NPT to accept international control. They may, however, do so upon request of the suppliers of nuclear materials wanting to ensure that their materials are not used for the manufacture of nuclear weapons. A certain number of facilities in the nuclear-weapon states have been submitted to IAEA safeguards on a voluntary basis. In the late 1990s, Russia and the United States agreed to submit to IAEA safeguards weapon-origin fissile material designated as no longer required for defence purposes.

What is clearly missing is an international body, to which complaints other than those related to nuclear safeguards, could be addressed for investigation. The absence of such a

body led to the application by some states of unilateral sanctions against suspected but not proven violators.

Peaceful Uses of Nuclear Energy

The NPT affirms the right of the parties to develop and use nuclear energy for peaceful purposes and obligates the parties in a position to do so to contribute to such efforts in non-nuclear-weapon states with due consideration for the needs of the developing areas of the world. The implementation of this provision of the NPT was affected by the slowdown in the growth of civilian nuclear power owing to safety factors, especially after the 1979 Three Mile Island accident in the United States, the 1986 Chernobyl accident in Ukraine, and the 1999 Tokai-mura accident in Japan. A few countries decided to give up nuclear energy and began dismantling their reactors. However, at the beginning of the current century, when the safety record of the nuclear industry turned out not to be worse than that of the industry generating energy from other sources, and when more and more people became aware that world resources of non-renewable fuel were being rapidly exhausted, the interest in civilian nuclear energy increased and the restrictions on nuclear trade started loosening.

Under the NPT, the potential benefits of peaceful applications of nuclear explosions were to be made available by the nuclear-weapon parties to non-nuclear-weapon parties under appropriate international observation. This promise was made in exchange for the renunciation by the latter states of the right to conduct any nuclear explosions, as there is no way that a nuclear explosion can be carried out with assurance that it performs no military function. Indeed, “peaceful” nuclear explosive devices, which can be used for industrial ends, could also be used as weapons. They are transportable, and the amount of energy they are able to release could cause mass destruction. Consequently, any of the non-nuclear-weapon countries that explodes such devices becomes de facto a nuclear-weapon power.

It is now recognized that conventional explosives can achieve results equivalent to those of nuclear explosives. Moreover, health and environmental risks would make nuclear explosions unacceptable to the public in many countries. The prevailing opinion is that peaceful uses of nuclear explosions would entail more risks than benefits. For this reason, the NPT clause which calls for the conclusion of a special international agreement or agreements to provide nuclear explosion services to non-nuclear-weapon states was not implemented. The Comprehensive Nuclear Test-Ban Treaty (CTBT), signed in 1996 (but not yet in force), prohibits nuclear explosions for both military and non-military purposes.

Disarmament Obligations

In one of the most important articles of the NPT (Article VI), the parties undertook to pursue negotiations “in good faith” on measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament. The NPT negotiating history suggests that the clause requiring the cessation of the nuclear arms race was understood by the signatories as denoting a package of measures, which included the termination of nuclear-weapon test explosions and a ban on further production of fissile material for nuclear explosive purposes.

The NPT clause providing for nuclear disarmament has given rise to sharp controversies. Most NNWS interpret it as an obligation to negotiate the abolition of nuclear armaments. They argue that the NPT was a bargain between the non-nuclear-weapon and nuclear-weapon states: the self-imposed nuclear arms denial of the former was to be matched by

corresponding acts of the latter. They also refer to the Advisory Opinion of the International Court of Justice (ICJ) of 8 July 1996, which acknowledged that there exists an international obligation to achieve nuclear disarmament in all its aspects. Most NWS treat the relevant NPT clause as an obligation to negotiate exclusively reductions or limitations of nuclear weapons and to preserve, thereby, what they consider to be strategic stability. They say that they envisage the elimination of nuclear arsenals only within the framework of general and complete disarmament. However, the undertaking to negotiate a treaty on general and complete disarmament--a remnant of the international debate conducted in the Cold War spirit of the early 1960s--is little more than a "ritual" formula appearing as a desideratum in UN resolutions or preambles to multilateral arms control agreements.

Amendments

The NPT is subject to amendments, but an amendment requires the consent of the nuclear-weapon parties, as well as those other parties that are members of the IAEA Board of Governors on the day the amendment is circulated. Whereas the nuclear-weapon powers might agree on certain changes in the text of the NPT, it is not likely that in the Board of Governors--a large and heterogeneous group--unanimity could be obtained among NPT parties on any significant modification of the Treaty. Moreover, even if an amendment were adopted by the required majority, it might fail to enter into force if the parties decided not to ratify it. This is why, in their endeavours to clarify ambiguities and to strengthen the NPT, the parties consider it safer and simpler to resort to agreed understandings, formal or informal, rather than tampering with the language of the Treaty.

Entry into Force and Duration

The initial duration of the NPT was set at 25 years. The decision about the extension of the Treaty for an indefinite period of time or for an additional fixed period or periods was to be taken by a majority of the parties at a specially convened conference. This conference was convened in April 1995. Since the same conference was charged with reviewing the operation of the NPT, it was called the NPT Review and Extension Conference.

On 11 May 1995, when it was clear that a majority of the parties, as required by the NPT, supported an indefinite extension of the Treaty, the conference decided without a vote (although not unanimously or by consensus) that the Treaty would continue in force "indefinitely". Two documents closely linked with the Decision on Extension and with each other were adopted on the same day, also without a vote. One was about the revised arrangements for reviewing the implementation of the NPT, and the other about the principles and objectives of non-proliferation.

The Decision on Strengthening the Review Process for the Treaty provided that review conferences should be held every five years, as had been the case during the preceding 25 years. A preparatory committee was to meet several times prior to each review conference to "consider principles, objectives and ways to promote the full implementation of the NPT as well as its universality, and to make recommendations thereon". The review conferences themselves had to look forward as well as back, evaluate the results of the period under review, including the implementation of the parties' undertakings under the Treaty, and identify the areas in which, and the means through which, further progress should be sought in the future.

The Decision on Principles and Objectives for Nuclear Non-Proliferation and

Disarmament was intended as a “yardstick” to measure progress in the fulfilment of the obligations under the NPT. It required that the parties' programme of action should include: completion of the negotiations on a nuclear test ban treaty; “immediate” commencement and early conclusion of negotiations on a convention banning the production of fissile material for nuclear weapons or other nuclear explosive devices; pursuit of systematic and progressive efforts by the nuclear-weapon states to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons; and pursuit by all states of general and complete disarmament under strict and effective international control. In addition, a resolution sponsored by Russia, the United Kingdom and the United States called upon all states of the Middle East that have not yet done so to accede to the NPT as soon as possible and to place their nuclear facilities under full-scope IAEA safeguards.

Withdrawal

Each party to the NPT has the right to withdraw from it if “extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country”. A party decides for itself whether such events have occurred and does not need to justify its action to any external authority. A notice addressed by it, three months in advance, to all other parties to the NPT as well as to the UN Security Council, with a statement of the events regarded as jeopardizing its security, should suffice. It is not clear from the language of the NPT which extraordinary events the drafters of the Treaty had in mind other than the acquisition of nuclear weapons by a potential adversary, and what action they expected from the Security Council.

In nearly four decades of the NPT's exis-tence, North Korea was the only country to take advantage of the withdrawal clause. When in March 1993 the North Korean Government gave notice of its withdrawal from the NPT, it referred to the joint US-South Korean military manoeuvres, which it considered threatening, and to the IAEA request to conduct a special inspection of North Korean facilities, which it considered unjustified. It also withdrew from the IAEA.

Can Nuclear Proliferation Be Stopped?

2. Security Assurances

2. Security Assurances

Except for a reference to the obligation of all states under the UN Charter to refrain in their international relations from the threat or use of force, no specific obligation has been laid down in the NPT to ensure the security of non-nuclear-weapon states. However, states which have renounced their claims to nuclear weapons, including those enjoying the protection of nuclear-weapon powers, have all along insisted on obtaining security assurances, considered by many to be an essential component of an effective nuclear non-proliferation regime.

Positive Assurances

As early as 1968, under the pressure of non-nuclear-weapon states, the UN Security Council adopted Resolution 255, by which the Soviet Union, the United Kingdom and the United States pledged immediate assistance, in accordance with the UN Charter, to any non-nuclear-weapon state party to the NPT, which was a “victim of an act or an object of a threat of aggression” in which nuclear weapons are used. These pledges, usually referred to as “positive assurances”, were clearly insufficient, as they merely reaffirmed the duty of UN members to provide assistance to a country which has been aggressed, irrespective of the type of weapon used in aggression. Moreover, China and France, the remaining nuclear-weapon powers, which at that time were not parties to the NPT, were not bound by this resolution, adopted by a majority vote.

Negative Assurances

Resolution 255 provided for action only when a threat of nuclear attack had been made or an attack had occurred. Therefore, states, which have forsworn nuclear weapons under the NPT, have also demanded assurances that nuclear weapons would not be used against them. Such assurances--usually called “negative” because they amount to a non-use obligation, as distinct from assurances containing an obligation to assist, as described above, were given to states establishing nuclear-weapon-free zones. Negative security assurances were also contained in unilateral statements made by the nuclear-weapon powers in connection with the 1978 and 1982 Special Sessions of the UN General Assembly devoted to disarmament, as well as on other occasions. However, they were conditional, phrased in a different way by different countries, and merely declaratory.

For years, efforts have been made in various forums, including the Conference on Disarmament (CD), to develop formal negative security assurances that would be uniform, unconditional and legally binding. The UN General Assembly adopted several resolutions recommending the conclusion of an international convention on the non-use of nuclear weapons against non-nuclear-weapon states.

Combined Assurances

Only in 1995, a few days before the NPT Review and Extension Conference, did the great powers decide to jointly sponsor UN Security Council Resolution 984, which combined positive and negative security assurances. This resolution was adopted unanimously.

The new positive assurances, now given by all five declared nuclear-weapon states, are

more specific than those included in Resolution 255. They provide that, in response to a request from a state victim of an act of nuclear aggression, or object of a threat of such aggression, the Security Council members would help to settle the dispute and restore international peace and security, as well as take “appropriate” measures, individually or collectively, for technical, medical, scientific or humanitarian assistance. In addition, “appropriate” procedures might be recommended by the Security Council regarding compensation under international law from the aggressor for loss, damage or injury sustained as a result of the aggression.

With regard to negative assurances, no progress whatsoever was achieved. Upon declaring the obvious, namely, that an aggression with the use of nuclear weapons would endanger international peace and security, Resolution 984 simply took note of the statements made by the nuclear-weapon states, in which the conditions for non-use of nuclear weapons were reiterated. France, Russia, The United States and the United Kingdom, reaffirmed that they would not use nuclear weapons against non-nuclear-weapon states parties to the NPT, except in the case of an invasion or any other attack on them, their territories, their armed forces or other troops, their allies, or on a state to which they have a security commitment, carried out or sustained by such a non-nuclear-weapon state in “association or alliance” with a nuclear-weapon state. For Russia, the above statement confirmed the reversal of the policy of no first use of nuclear weapons, advocated until 1993, and the official adoption of the doctrine of nuclear deterrence.

Only China undertook not to use or threaten to use nuclear weapons against non-nuclear-weapon states or nuclear-weapon-free zones at any time and under any circumstance. This commitment applies to non-nuclear-weapon parties to the NPT or non-nuclear-weapon states that have undertaken comparable internationally binding commitments not to manufacture or acquire nuclear explosive devices.

Resolution 984 refers (as Resolution 255 did) to Article 51 of the UN Charter dealing with the right of self-defence. This Charter provision does not have direct relevance to the issue of providing security assurances to non-nuclear-weapon states, but a reference to it may serve to legitimize the use of nuclear weapons in countering any armed attack, including one carried out solely with conventional means of warfare, as if the right of self-defence were unlimited.

Resolution 984 pointed out that the issues raised in its provisions remained of continuing concern to the Security Council. This statement may, therefore, serve as a point of departure for negotiating a more meaningful international instrument.

Can Nuclear Proliferation Be Stopped?

3. Protection of Nuclear Material

3. Protection of Nuclear Material

Protection in International Transport

A major step towards reducing the risks of diversion of nuclear material to non-peaceful purposes was made in 1980 with the signing of the Convention on the Physical Protection of Nuclear Material. This convention, in force since 1987, obliges the parties to ensure that, during international transport across their territory or on ships or aircraft under their jurisdiction, nuclear material for peaceful purposes, as categorized in an annex, is protected at the agreed level. (It does not apply to the physical protection of nuclear material for military purposes or to the protection of other radioactive sources.) Thus, for example, transportation of 2 kg or more of plutonium or of 5 kg or more of enriched uranium must take place under constant surveillance by escorts and under conditions which ensure close communications with appropriate response forces.

Furthermore, the parties undertook not to export or import nuclear material or allow its transit through their territory, unless they had received assurances that this material would be protected during international transport in accordance with the levels of protection determined by the convention. The parties also agreed to share information on missing nuclear material to facilitate recovery operations. Robbery, embezzlement or extortion in relation to nuclear material, and acts without lawful authority involving nuclear material which cause or are likely to cause death or serious injury to any person or substantial damage to property, are to be treated as punishable offences. Each party must inform the depositary of its laws and regulations giving effect to the convention.

Protection in Domestic Activities

Within states, the responsibility for physical protection of nuclear material and facilities rests with the governments of these states. However, such protection is a matter of worldwide concern. Since the effectiveness of physical protection in one state may depend on measures taken by another state, there is a need for international co-operation. Theft of plutonium or highly enriched uranium could lead to the construction of an explosive device capable of causing mass destruction. Moreover, an act of sabotage against a nuclear facility--nuclear reactor, separate irradiated fuel storage site, reprocessing plant or fuel fabrication facility utilizing plutonium – or against a shipment of nuclear material within one country could create a radiological hazard to the populations of other countries. To deal with these problems, the IAEA published recommendations for what member states can do to establish national systems for the protection of nuclear facilities and of nuclear material in use, transport and storage, or to improve the quality and the effectiveness of the existing systems. The IAEA International Physical Protection Advisory Service (IPPAS) provides advice and assistance to member states in translating these recommendations into specific requirements.

The 1998 Guidelines for the Management of Plutonium set out the policies that a number of states, including the nuclear-weapon states, decided to follow with regard to plutonium. In accordance with these guidelines, annual statements of national holdings of civil non-irradiated plutonium and of plutonium contained in spent civil reactor fuel are submitted to the IAEA.

Under the 1994 Convention on Nuclear Safety, in force since October 1996, the contracting parties agreed to achieve a high level of nuclear safety world-wide through the enhancement of national measures and international co-operation, including safety-related technical

co-operation; to establish effective defences in nuclear installations against potential radiological hazards in order to protect individuals, society and the environment from harmful effects of ionizing radiation from such installations; to prevent accidents with radiological consequences and to mitigate such consequences should they occur. The parties must submit reports at periodic review meetings on measures taken to implement their obligations. The Convention covers only civilian nuclear power plants.

In 1998 a group of experts convened by the IAEA Director General to review all Agency programmes urged that consideration be given to the possible revision of the Convention on the Physical Protection of Nuclear Material. On 8 July 2005 a conference of the parties adopted a series of amendments strengthening the provisions and expanding the scope of the Convention. The issues addressed included terrorism, smuggling and sabotage. The new rules will enter into force after two-thirds of the parties have ratified the changes. By September 2006 only six states had deposited their instruments of ratification, acceptance or approval.

Protection of Weapons

There are no means to prevent nuclear weapons from falling into the hands of sub-national political groups or foreign governments when law and order in a nuclear-weapon state break down. Tactical weapons, such as artillery shells and mines, present a particular danger, because they are small and therefore easy to conceal and transport. Some are not equipped with a protective mechanism and may be directly usable. Full awareness of the dangers of nuclear terrorism or of an accidental nuclear explosion may eventually lead to the abolition of tactical nuclear weapons. In the meantime, all nuclear weapons, both deployed and non-deployed, must be fitted with use-denial mechanisms that disable the weapons when unauthorized persons attempt to use them.

The Problem of Smuggling

The disintegration of the Soviet Union weakened the security of nuclear installations and storage facilities and brought about the loosening of nuclear export controls in the new independent states. In 1995, the nuclear material inventory in Russia consisted of some 1,100 to 1,300 tons of highly enriched uranium and some 165 tons of separated plutonium, distributed over more than 50 sites. (It is estimated that to make its first simple nuclear device, a state would need 8 kg of plutonium or 25 kg of uranium enriched to 20 per cent or more in uranium-235; more sophisticated weapons would require less plutonium or enriched uranium.) Proliferation-significant quantities of these materials were also stocked in Belarus, Kazakhstan and Ukraine. These circumstances, as well as the fact that weapon-grade fissile materials can be safely handled and transported and cannot be easily detected by law-enforcement authorities, created conditions that facilitated theft and smuggling.

The smugglers first offered very small quantities of plutonium or low-enriched uranium, probably as samples for possible customers, but since mid-1994 the police of several countries have intercepted substantial quantities of plutonium and weapon-usable uranium. (Other intercepted radioactive materials proved unfit for weapon purposes.) In none of the known cases was the amount of the confiscated material enough for an industrially underdeveloped country to manufacture a nuclear explosive device (see above), and the probability that a terrorist group would have the capability to construct such a device is low. Obtaining the necessary materials is only the first step in building a nuclear bomb; its production requires highly qualified personnel in the fields of physics, chemistry, metallurgy and electronics.

Can Nuclear Proliferation Be Stopped?

Russia is not the only country to have difficulties with fissile material management. Other countries encountered problems as well, but no buyer of smuggled nuclear weapon-usable material was clearly identified. Those aspiring to nuclear-weapon status would most probably try to acquire a weapon-producing potential rather than a limited amount of material for only one or two weapons. Anti-smuggling efforts ought to be co-ordinated internationally. At the request of its Board, the IAEA developed a database of incidents of illicit trafficking in nuclear material and in other radioactive sources. The data include open information voluntarily provided by states as well as information obtained from the media and other unofficial sources. States may also provide information that they consider confidential. For the purposes of reporting, an "illicit trafficking incident" is a situation in which the movement or sale of nuclear material or other radioactive sources is not in conformity with national law and involves a quantity or quality of material which is of interest from either proliferation or radiation protection perspective.

In their Joint Statement of 28 September 1994, Presidents Clinton and Yeltsin agreed to co-operate in combating the illegal trade in nuclear material and enhance transparency in nuclear matters. Moreover, the participants in the April 1996 Nuclear Safety and Security Summit agreed to ensure increased co-operation among their governments in all aspects of prevention, detection, exchange of information, investigation and prosecution in cases of illicit nuclear trafficking.

The United States has assisted the authorities of several former Soviet republics in developing and installing modern surveillance and monitoring equipment for use at sites where sensitive nuclear material is stored. Complete material accountancy in both the nuclear- and non-nuclear-weapon states would further help to enhance the safety of fissile material. The IAEA could assist in determining the physical and chemical characteristics of the confiscated smuggled nuclear materials and elaborate ways of establishing their origin.

It has been proposed that an international anti-smuggling convention be negotiated to complement the existing rules dealing with the threat of diversion of nuclear weapons or nuclear-weapon material. Such a convention could also strengthen export controls.

4. Nuclear Supplies

4. Nuclear Supplies

From the political perspective, the threat of nuclear-weapon proliferation has diminished since the entry into force of the NPT. However, from a technical perspective it may have increased, because it is now easier for states to develop nuclear weapons. Nuclear-weapon technology is no longer a secret shared by a few and most non-nuclear components of the weapons are available in international commerce. Hence the need for ever stricter measures of control over nuclear supplies.

Guidelines for Nuclear Transfers

In 1977 a group of nuclear material and equipment exporters, the so-called 'London Club', adopted a set of principles for safeguards and export controls. The group included France, which for the first time participated in the formulation of international nuclear export controls, even though it was not yet party to the NPT. The Guidelines for Nuclear Transfers, agreed by what was subsequently called the Nuclear Suppliers Group (NSG), were several times revised taking account of the advances in technology, the proliferation sensitivity and the changes occurring in procurement practices. Consent of all the NSG members (45 in 2007) is needed for modification of the Guidelines.

The Guidelines apply to nuclear transfers for peaceful purposes to any non-nuclear-weapon state and, in the case of controls on retransfer, to transfers to any state. An export "trigger list" was defined. Suppliers may authorize the transfer of items or related technology identified in this list only upon formal governmental assurances from recipients explicitly excluding uses which would result in a nuclear explosive device. All listed nuclear materials and facilities should be placed under physical protection to prevent unauthorized use and handling. Arrangements should be made for a clear definition of responsibilities for the transport of the trigger list items. Suppliers may transfer trigger list items or related technology to a non-nuclear-weapon state only when the receiving state has brought into force an agreement with the IAEA requiring the application of safeguards on all source and special fissionable material in its current and future peaceful activities. Transfers to a non-nuclear-weapon state without such a safeguards agreement may be authorized only in exceptional cases, when they are deemed essential for the safe operation of existing facilities, and only if safeguards are applied to those facilities. The above policy does not apply to agreements or contracts drawn up on or prior to 3 April 1992. Suppliers reserve the right to apply additional conditions of supply as a matter of national policy. All these requirements also apply to facilities for reprocessing, enrichment, or heavy-water production, utilizing technology directly transferred by the supplier or derived from transferred facilities. Transfers of such facilities, or major critical components thereof, or related technology, require an undertaking that IAEA safeguards apply to any facility of the same type (that is, if the design, construction or operating processes are based on the same or similar physical or chemical processes, as defined in the trigger list) constructed during an agreed period in the recipient country and that there is at all times in effect a safeguards agreement permitting the IAEA to apply Agency safeguards with respect to such facilities identified as using transferred technology.

Suppliers must exercise restraint in the transfer of sensitive facilities, technology and weapons-usable materials. If enrichment or reprocessing facilities, equipment or technology are to be transferred, suppliers should encourage recipients to accept, as an alternative to national plants, supplier involvement and/or other appropriate multinational participation in resulting facilities. For a transfer of an enrichment facility, or technology therefor, the

recipient nation must agree that neither the transferred facility, nor any facility based on such technology, will be designed or operated for the production of greater than 20% enriched uranium without the consent of the supplier nation. Transfer of trigger list items or related technology may take place only upon the recipient's assurance that in the case of retransfer of such items or technology, or transfer of trigger list items derived from facilities originally transferred by the supplier, or with the help of equipment or technology originally transferred by the supplier, the recipient of the transfer or retransfer has provided the same assurances as those required by the supplier for the original transfer. In addition, the supplier's consent is required for certain specified transfers and retransfers. In general, suppliers may authorize transfer of the trigger list items or related technology only when they are satisfied that the transfers will not contribute to the proliferation of nuclear weapons or other nuclear explosive devices. Suppliers should promote international exchange of physical security information, protection of nuclear materials in transit and recovery of stolen nuclear materials and equipment. They should also encourage the designers and producers of sensitive equipment to construct it in such a way as to facilitate the application of safeguards. In the event that one or more suppliers believe that there has been a violation of supplier/recipient

understandings resulting from the Guidelines, particularly in the case of an explosion of a nuclear device, or illegal termination or violation of IAEA safeguards by a recipient, suppliers should consult promptly through diplomatic channels in order to determine and assess the reality and extent of the alleged violation. Upon the findings of such consultations, the suppliers should agree on an appropriate response and possible action that could include the termination of nuclear transfers to that recipient.

Nuclear Dual-Use Guidelines

In March–April 1992 the NSG meeting in Warsaw adopted the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material and Related Technology (the so-called Warsaw Guidelines), which became effective in January 1993. According to these guidelines, the suppliers may not authorize transfers of equipment, materials, software or related technology, identified in an annex, for use in a non-nuclear-weapon state in a nuclear explosive activity or an unsafeguarded nuclear fuel cycle activity or, in general, when there is an unacceptable risk of diversion to such an activity, or when the transfers are contrary to the objective of averting the proliferation of nuclear weapons. (A number of states notified the IAEA that, in the light of developments in nuclear-related technology, they have updated parts of the list of items incorporated in the Annex.)

Export licensing procedures for the transfer of relevant items, which are to be established by the suppliers, should include enforcement measures for violations. In considering whether transfers should be authorized, the most important factor to be taken into account is whether the recipient state is a party to the NPT or to a similar international, legally binding nuclear non-proliferation agreement, and has an IAEA safeguards agreement in force applicable to all its peaceful nuclear activities. Before authorizing a transfer, the supplier should obtain a statement from the end-user specifying the uses and end-use locations of the proposed transfer, as well as an assurance that the proposed transfer or any replica thereof will not be used in any nuclear explosive activity or unsafeguarded nuclear fuel cycle activity. In case of transfer to a non-adherent to the Warsaw Guidelines, suppliers should obtain an assurance that their consent will be secured prior to any retransfer of the relevant items or replica thereof to a third country. Each supplier country may apply the Guidelines to other items of significance in addition to those specified in the Annex. It may also apply other conditions for transfer in addition to those provided for in the Guidelines. Suppliers should exchange

information and consult with other states adhering to the Guidelines.

Members of the NSG stated that in adopting the Nuclear Dual-Use Guidelines they were aware of the need to contribute to economic development while avoiding contributing in any way to the dangers of proliferation of nuclear weapons or other nuclear explosive devices. They also saw the need to remove non-proliferation commitments from the field of commercial competition. Japan serves as a point of contact for administering the transfer control arrangements through its Permanent Mission to the IAEA in Vienna.

Zangger Committee

Since 1971 another intergovernmental group, the Nuclear Exporters Committee, known as the Zangger Committee (after its first chairman), has been active in establishing the conditions and procedures to govern exports of nuclear equipment or material in accordance with the obligations set out in the NPT as well as on the basis of fair commercial competition.

The Zangger Committee is engaged in the exchange of information about exports, or licences for exports, to any non-nuclear-weapon state not party to the NPT, through a system of annual returns that are circulated on a confidential basis among the members. Understandings reached in the Committee are communicated by individual countries to the IAEA and are carried into effect through domestic export control legislation. An agreed trigger list specifies items which, when exported, must be subject to safeguards under an agreement with the IAEA. The list is continuously reviewed and updated following the developments in nuclear technology. The Zangger Committee is an informal body; its understandings have no status in international law but are arrangements unilaterally entered into by member states.

Since the NSG, which comprises the 35 members of the Zangger Committee, has adopted strict guidelines for nuclear supplies, including a detailed trigger list, and since the major suppliers have committed themselves not to export nuclear material or equipment to states which are not covered by full-scope safeguards, the Zangger Committee may appear superfluous. It continues, nevertheless, as a technical body complementary to the NSG, to develop and clarify the trigger list.

Spokesmen of certain developing countries have criticized the restrictive measures taken by suppliers as an infringement of the right to nuclear supplies implied in the NPT. Their argument is that, since governments have accepted the safeguards required by the Treaty, no further limitation should be placed on their peaceful nuclear programmes. However, under the NPT, the right of parties to obtain equipment, material and technology for peaceful uses of nuclear energy is not unlimited: any such supplies are subordinated to non-proliferation goals. This means that they must not in any way facilitate the acquisition of nuclear weapons.

The nuclear export controls may have slowed the pursuit of nuclear weapons by certain non-NPT states. There were cases of illegal exports, but these have been prosecuted by the authorities of the countries concerned as criminal offences.

5. Fissile Material Production Cut-off

5. Fissile Material Production Cut-off

Past Efforts

Already at the beginning of the 1960s, in the wake of the conclusion of the Partial Test Ban Treaty, the United States was prepared to cut the production of fissile material for nuclear weapon purposes down to its actual needs, on condition that the Soviet Union acted likewise. On 20 April 1964 President Johnson announced a substantial reduction in US production of enriched uranium to be carried out over a four-year period. Simultaneously with this announcement, Chairman Khrushchev made public the decision of the Soviet government to stop the construction of two new large atomic reactors for the production of plutonium; to reduce substantially the production of uranium-235 for nuclear weapons; and to allocate accordingly more fissile materials for peaceful uses. On 21 April 1964 Prime Minister Douglas-Home stated that plutonium production in the United Kingdom was being gradually terminated and that the plutonium produced by civil reactors would not be used in the weapons programme.

The above measures were largely understood as the start of a process leading to an internationally agreed complete cessation of production of fissile materials for weapons, but the nuclear-weapon powers continued producing these materials. In the course of several decades they accumulated such enormous quantities of weapon-grade uranium and plutonium that they could, without risk, stop their production unilaterally, without a formal treaty. In addition to the undertaking to stop the operations of plutonium production reactors, Russia and the United States agreed, bilaterally, to definitively dispose of large quantities of weapon-grade plutonium withdrawn from their respective nuclear-weapon programmes. To render it irreversibly unusable for nuclear weapons, the plutonium is to be irradiated in nuclear power reactors as so-called mixed-oxide (MOX) fuel and/or “immobilized” (in glass or ceramic forms) in high-level radioactive waste and buried. Following the 1993 UN General Assembly Resolution 48/75L, adopted by consensus and calling for a cut-off of production of fissile materials for nuclear explosive purposes, it was expected that the matter would soon become the subject of negotiations at the CD. However, the CD encountered difficulties in defining a mandate of the ad hoc committee that was to be entrusted with such negotiations.

Controversies over mandate

At the Conference on Disarmament some delegations were of the opinion that the negotiating mandate should only permit consideration of the future production of fissile material, that is, production after an agreed cut-off date. Other delegations insisted that the mandate should permit consideration of stocks from past production as well. Still others contended that, in addition to the question of production of fissile material, consideration should be given to the management of such material. In March 1995 the CD accepted a proposal worked out by Ambassador Shannon of Canada to negotiate a “non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices”. A proviso was made that no delegation would be precluded from raising for consideration any of the above-mentioned controversial issues. However, in spite of its formal establishment, the cut-off negotiating committee could not start working because several delegations demanded that other measures be negotiated simultaneously. One such measure was, and still is, the prevention of an arms race in outer space advocated by several delegations, particularly by China. Subsequently, the United States declared that a cut-off was not multilaterally verifiable and discarded the

Shannon mandate as the basis for negotiations.

US Draft Treaty

In May 2006 the United States submitted a draft treaty on the “cessation of production of fissile material for use in nuclear weapons or other nuclear explosive devices” (FMCT) to be negotiated in an ad hoc committee of the CD. This submission coincided in time with the US efforts to obtain support of the Congress for the nuclear deal with India (see section 1). As distinct from almost all other arms control agreements, the US draft does not require verification of the contracted obligations. The United States does not believe that reliable verification is achievable and that inspections could be carried out without compromising proliferation-sensitive information. The omission of verification clauses was criticized by many, including some of the US allies, because it is generally recognized that no agreement can be effective without provisions to check compliance.

International measures of supervision are usually dealt with in the course of negotiations on a treaty and agreed upon before the adoption of its final text, but they may also be worked out and adopted after the treaty’s entry into force. The latter approach was used in the elaboration of nuclear safeguards for the Non-Proliferation Treaty. It could also be used in the case of the FMCT if the United States admitted that the ban is verifiable. According to the draft, questions of compliance would be handled and clarified through consultations between the parties. Use of national means for the collection of relevant information is envisaged, but it would apply mainly to highly industrialized countries. Sharing such information with other states is not provided for.

It is not clear what would be the role (if any) of the IAEA in dealing with matters of compliance. Resort to the UN Security Council would be possible in connection with the implementation of the treaty. However, unless all parties submit their nuclear activities to international verification, a potential complainant may not be able to provide enough evidence related to the matter.

For the treaty’s entry into force, the draft requires ratification by China, France, Russia, the United Kingdom and the United States. This does not seem sufficient to render the treaty effective. In addition to the above-enumerated states, defined by the NPT as nuclear-weapon states, also non-parties to the NPT, those possessing nuclear weapons--India, Pakistan, North Korea and Israel--would have to join the FMCT. Since the first three states have demonstrated their nuclear capabilities by conducting explosive testing, they are known to possess fissile material for weapon purposes and would be expected to stop its production under a global ban. However, the ambiguous nuclear status of Israel could complicate the postulate of covering all producers of the banned material. Indeed, it may be awkward to make the entry into force of the FMCT dependent on the ratification by a state that is widely known to possess nuclear weapons but refuses to acknowledge it. As pointed out above, from the formal point of view, Israel remains a non-nuclear weapon state. A way to overcome this obstacle would be to consider indispensable the ratification of the FMCT by all those states, which conduct significant nuclear activities but have no comprehensive IAEA nuclear safeguards applied to these activities. The nine states specified above fall into this category. They do not even need to be identified by name.

The FMCT should be of unlimited duration. A time limit of 15 years, as proposed in the draft, cannot be justified.

The draft treaty was welcomed in the CD as a sign of renewed US interest in multilateral arms control, but there has been no discussion about its shortcomings. Many delegates are

prepared to embark upon comprehensive negotiations and are willing to do so without pre-conditions.

Importance of the FMCT

A global treaty banning the production of fissile materials for nuclear explosive devices would strengthen the non-proliferation regime, even if it did not affect the existing stockpiles.

The 183 non-nuclear-weapon parties to the NPT are under the obligation not to produce nuclear weapon-usable materials and are subject to full-scope IAEA safeguards. They are not expected to assume additional non-proliferation obligations or controls. Cessation of production of the materials in question directly concerns only those states, which conduct significant nuclear activities but are not subject to full-scope IAEA safeguards. It would, therefore, seem more expedient to negotiate the proposed cut-off measure in a forum composed of these states rather than at the CD composed of 65 states, parties and non-parties to the NPT.

Certain opponents of a cut-off treaty argue that it would amount to indirectly recognizing the freedom of India, Israel, North Korea and Pakistan, in addition to the five recognized nuclear-weapon states, to retain their unsafeguarded stocks of fissile materials, use these materials for the production of nuclear weapons and retain the weapons already manufactured. This freedom cannot be taken away by a cut-off treaty alone, but it may be significantly curtailed.

To avoid interpreting the cut-off as an arrangement legitimizing the nuclear status of certain states, the measure should be unambiguously recognized as a temporary, transitional step in the process of nuclear disarmament. The cut-off treaty should provide for, or be followed by, the establishment of a comprehensive, regularly updated global register of stocks of plutonium (both weapon-grade and reactor-grade, as the latter, too, can be used to make nuclear weapons) and highly enriched uranium. Such transparency would facilitate a possible future, internationally verified prohibition on the use of any fissile material, including the material extracted from dismantled weapons, for the production of new weapons.

6. The Missile Technology Control Regime

6. The Missile Technology Control Regime

Missiles can carry all kinds of weapon, but the acquisition of missiles in regions of tension may engender pressure for the acquisition of weapons of mass destruction, in particular nuclear weapons, or arouse suspicion that the country importing or producing missiles is planning to acquire such weapons. Indeed, if a nuclear-capable country which possesses missiles decided to “go nuclear”, it would have readily available nuclear delivery vehicles that are more threatening than aircraft: the time of travel from the missile launch pad to target is measured in minutes instead of hours and, once launched, missiles cannot be recalled and are very difficult to intercept.

A recommendation was, therefore, frequently made to strengthen the non-proliferation regime by complementing the existing restraints on supplies of nuclear material and equipment by restraints on supplies of dual-capable weapon systems, that is, systems capable of delivering both conventional and nuclear weapons. This idea was partly put into practice when, in April 1987, seven governments--those of Canada, France, FR Germany, Italy, Japan, the United Kingdom and the United States--established the Missile Technology Control Regime (MTCR).

Guidelines for Sensitive Missile-Relevant Transfers

The MTCR Guidelines were originally intended to cover only transfers of equipment and technology, which could make a contribution to missile systems capable of delivering a nuclear weapon. They were to be applied exclusively to missiles exceeding certain specified thresholds for the range (300 km) and weight of payload (500 kg). In 1992, they were amended to cover missiles capable of delivering not only nuclear but also biological and chemical weapons, regardless of range and payload. They must not impede space programmes, as long as such programmes could not contribute to the delivery systems (other than manned aircraft) for weapons of mass destruction.

The revised MTCR Guidelines--in effect since January 1993--are accompanied by an Annex specifying two categories of item, which term includes equipment and technology. Category I items are those of greatest sensitivity. If a Category I item is included in a system, that system will also be considered as Category I, except when the incorporated item cannot be separated, removed or duplicated. Particular restraint is to be exercised in the consideration of Category I transfers regardless of their purpose, and there is a strong presumption to deny such transfers. Particular restraint is to be exercised also in the consideration of transfers of any items or of any missiles, if the supplier government itself judges, on the basis of available, “persuasive” information, that they are intended to be used for the delivery of weapons of mass destruction; there is a strong presumption to deny such transfers. Until further notice, transfer of Category I production facilities is not to be authorized.

Category II items are not on a denial list; their transfers are to be considered on a case-by-case basis. Concern about the proliferation of weapons of mass destruction occupies a prominent place among the factors that must be taken into account in the evaluation of all transfer applications. Decisions concerning membership, like all other MTCR regime decisions, are made only by consensus. An office in the French Ministry for Foreign Affairs acts as a point of contact for coordinating the schedule of meetings and their agendas.

The Hague Code of Conduct (HCOC), subsequently adopted by the members of the MTCR, was to complement and reinforce the missile non-proliferation regime. It contains a

set of principles, commitments and confidence-building measures to be implemented via a multilateral instrument open to all states. Extensive exchanges of information as well as reporting are to ensure transparency. However, cruise missiles are not covered and in other respects the HCOG has added little to the basic provisions of the MTCR Guidelines.

Can Nuclear Proliferation Be Stopped?

7. Further Steps to Prevent Proliferation

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Global Partnership

At a meeting of the group of eight countries (G8), held in June 2002 at Kananaskis (Canada), the leaders of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States launched a Global Partnership against the spread of weapons and materials of mass destruction. (Other countries willing to accept the principles of the Global Partnership may join it.) The G8 promised to support specific cooperation projects, initially in Russia, in order to address non-proliferation, disarmament, counter-terrorism and nuclear safety issues. Russia was singled out as a country having the largest stockpile of weapons of mass destruction but not being able--because of its economic conditions--to place these weapons under fully effective and reliable control. The projects are devoted to the destruction of chemical weapons, the dismantlement of decommissioned nuclear submarines, the disposition of fissile materials and the employment of former weapon scientists. The Russian government identified the first two projects as priority areas of concern. A set of guidelines has formed the basis for the negotiation of specific project agreements.

As regards financing, seven of G8 partners have pledged to add 10 billion dollars over ten years to the 10 billion dollars the United States is already planning to spend on relevant programmes. The Partnership is therefore called a "10 plus 10 over 10" agreement. However, the contributions of a number of countries have lagged behind the pledges. The problem of liability for nuclear and non-nuclear damage, as well as the lack of transparency and of satisfactory access to project sites, held up some important projects.

PSI and CSI

In 2003, in pursuance of its counter-proliferation policy, the United States put forward the so-called Proliferation Security Initiative (PSI), also called the initiative of Krakow, after a city in Poland where the initiative was launched by the US President. The declared purpose of the Initiative is to interdict and seize weapons of mass destruction (WMD), including, in the first place, nuclear weapons, their delivery vehicles and related materials, when they are in transit on land, in the air or at sea, in order to prevent them from falling into the hands of states or non-state actors of proliferation concern.

International law does not generally stand in the way of interdicting and seizing WMD-related items on the land territory of a state. Aircraft flying over other states may be forced to land and be inspected. The situation is different when it comes to seas. The most important document codifying the law of the sea is the 1982 UN Convention on the Law of the Sea (UNCLOS). According to UNCLOS, a foreign ship entering a port of a state is subject to the territorial jurisdiction of that state. Local authorities have, therefore, the right to carry out the interdiction and seizure of goods. However, in territorial waters, extending 12 nautical miles beyond the land territory of a coastal state, ships enjoy the right of "innocent passage" considered customary law. A passage is innocent if it is not prejudicial to the peace, good order or security of the coastal state, irrespective of the cargo it carries. The presence of dangerous goods, including weapons, cannot by itself render a passage non-innocent.

In a "contiguous zone" of 24 nautical miles from the baselines from which the territorial sea is measured, the coastal state may exercise control only in order to prevent and punish infringements of its customs, fiscal, immigration or sanitary laws and regulations. The area extending 200 nautical miles from the baselines from which the territorial sea is measured,

may be claimed as an “exclusive economic zone” (EEZ) to conduct control over natural resources, but the jurisdictional competence possessed by the coastal state under the regime of EEZ does not apply to shipments of WMD or related materials. In the high seas, that is, in those portions of the sea that are not covered by the EEZ, the territorial waters or the internal waters (that is, waters on the landward side of the baseline of the territorial sea) PSI operations may affect the principle of the freedom of navigation.

Boarding foreign vessels in international waters is generally prohibited, but there are a few exceptions. They regard piracy, slave trade, engagement in unauthorized broadcasting, refusal to show the flag or illicit trafficking in narcotics or psychotropic substances, but maritime transfer of WMD and of related material or equipment is not excepted. Nevertheless, the flag state may enter bilateral arrangements allowing its vessels to be boarded. Indeed, the United States has concluded ship-boarding agreements with several countries, mainly those flying flags of convenience. These agreements, based on the principle of reciprocity, concern only commercial vessels. Warships and other government ships operated for non-commercial purposes enjoy immunities. What cannot be legitimately covered is the use of force by the boarding party to seize and confiscate the cargo, punish the crew and detain the ship itself. Such dramatic measures would have to be decided upon and carried into effect within the existing international legal framework rather than by individual states. The UN Security Council is the most competent body to deal with material breaches of obligations susceptible to threaten international peace and security.

The threat of a nuclear attack, launched from a sea-borne container upon its arrival at the port of destination, has given rise to the US Container Security Initiative (CSI). Following this initiative, announced in January 2002, US inspectors have been deployed at many major seaports to clear containerized cargo before shipment to the United States. The CSI offers reciprocity to the participating countries. They may send their customs officers to major US ports to check containerized cargo being exported to their countries. However, the inspections conducted at the present level are not sufficient to counter the security risks. The probability of detecting weapons concealed in containers is not high. It must be improved by new technologies, keeping nonetheless in mind that physically checking every cargo container is not an option; it could paralyze global shipping.

Security Council Resolution 1540

Another step meant to reinforce the non-proliferation regime was taken in 2004 with the adoption of the UN Security Council Resolution 1540. This Resolution requires all governments to criminalize proliferation and put in place “appropriate, effective” measures to deny access to biological, chemical and nuclear weapons, their delivery systems and related materials to terrorists and other non-state actors. Nuclear accounting and control are to be established in those states that have not yet done so, with the assistance of other states if necessary.

Resolution 1540 passed (by consensus) under Chapter VII of the UN Charter, which deals with threats to international peace and security and provides for sanctions in case of non-compliance. It is, therefore, binding on all UN Members, parties and non-parties to the NPT. A Committee of the Security Council was to report on the fulfilment of the obligations, but no standards have been formulated to assess the degree of their implementation. The consequences of non-compliance are not spelled out either. The scope of the Resolution is narrow. It deals mainly with measures to be taken against potential nuclear proliferators (non-state actors) rather than against actual proliferators (state actors). It does not mention the disarmament obligations of the NWS, whereas it is the non-fulfilment of these obligations that undermines the integrity of the NPT.

Can Nuclear Proliferation Be Stopped?

8. Summary and Conclusions

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The NPT constitutes an obstacle to nuclear anarchy. It has established a norm of international behaviour in the nuclear field and is therefore of paramount importance for arms control. Despite the asymmetry of the rights and obligations of the nuclear-weapon and non-nuclear-weapon parties, the NPT has attracted a record number of adherents, including Ukraine, Belarus and Kazakhstan, which gave up the Soviet nuclear weapons deployed on their territories. By the year 2007 only India, Israel, Pakistan and North Korea had been outside the NPT. The nuclear test explosions conducted in 1998 by India and Pakistan dealt a blow to the international nuclear non-proliferation regime. They did not, however, directly impair the integrity of the NPT, as neither country was party to the Treaty. In spite of being de facto nuclear-weapon powers, India and Pakistan cannot join the NPT as nuclear-weapon states; this would be contrary to the letter of the Treaty. Nor are they likely to follow the example of South Africa in destroying the nuclear weapons they have manufactured and join the NPT as non-nuclear-weapon states.

The NPT failed to dispel the fear that nuclear weapons may be used again. It is difficult to comprehend why after the termination of the Cold War confrontation, the elimination of the US and Soviet intermediate-range nuclear forces, the withdrawal of most tactical nuclear weapons to central locations and the beginning of the process of strategic weapons dismantlement, the nuclear postures of the great powers have remained unchanged. This inflexibility is all the more surprising as each nuclear-weapon state possesses conventional armed forces quantitatively and/or qualitatively superior to those of its potential non-nuclear-weapon adversaries and would not need to resort to nuclear weapons to stop an aggression launched by the latter. The argument that the option of using nuclear weapons against non-nuclear-weapon states must be retained to react to a possible use of chemical or biological weapons is not convincing. The effects of chemical weapons, as measured in terms of lethality are not significantly different from those caused by conventional explosives. Biological weapons have a potential of great lethality, but a variety of protective measures exist to mitigate a biological attack, whereas very little can be done to mitigate the destruction caused by a nuclear attack. Should a chemical or biological threat emerge, a massive response with sophisticated conventional weapons would suffice. The residual role of nuclear weapons amounts now to nothing more than deterring--through a threat of reprisal in kind--the first use of these weapons. All nuclear-weapon states have declared that their nuclear weapons are not targeted at any state, and yet, the nuclear security assurances they have given to non-nuclear-weapon states are still neither unconditional, nor uniform, nor legally binding.

The 1996 comprehensive nuclear test ban treaty (CTBT) was to be followed by a treaty banning the production of fissile material for nuclear explosive purposes. Ten years later the former was still not in force, while the latter was not even under negotiation. The competition in nuclear arms has not come to an end, as evidenced by the abrogation of the 1972 ABM Treaty and the on-going construction by the United States of a world-wide strategic missile defence; the planned deployment of US missile interceptors and tracking radar sites in Central Europe; the US "reliable replacement" programme to introduce new designs of nuclear weapons; the continued operation by Russia of a missile defence system to protect the region around Moscow and its threat to withdraw from the 1987 INF Treaty; the envisaged modernization of the British nuclear-armed submarine fleet; and the rapidly rising military expenditures of China and Russia.

Stagnation and regression in nuclear disarmament negotiations undermine the non-proliferation regime when the stocks of nuclear weapons remain exceedingly high (some 27,000). A halt to the production of plutonium and/or highly enriched uranium--the basic

component of nuclear weapons--would at least limit the size of potential nuclear arsenals. In depriving the nuclear-weapon powers of their right to produce non-safeguarded fissile materials, a verified cut-off measure would also attenuate the present inequality of the NPT parties with regard to nuclear safeguards. Whereas the non-nuclear-weapon states are obliged under the NPT to apply safeguards to all their nuclear activities, the nuclear-weapon states are not; they have submitted to international controls only a certain number of nuclear facilities, and they have done so only on a voluntary basis. Under the treaty sought by the United States, there would be no mandatory verification of stocks of weapon-usable materials from past production, but verification of future non-production of weapon-usable materials could, and should, be the same for all parties. Particularly, the enrichment and reprocessing plants in the territories of the parties would have to be subject to undifferentiated international verification. Production of highly enriched uranium for naval reactors and certain research reactors would have to be addressed separately. It is becoming increasingly feasible to use low enriched uranium for the propulsion of ships.

Thirty-four states (by 2007) possessing either ballistic missiles or advanced ballistic missile-related technological capacities have been attracted by MTCR. The regime is based on the assumption that foreign acquisition or development of delivery vehicles can be delayed and made more complicated and costly if the producers restrict exports. In the long run, however, it may prove untenable to enforce regulations aimed at denying certain missiles or missile technology to the majority of nations, while reserving them for the minority. There is, moreover, no way to clearly separate the peaceful uses of outer space from the pursuit of long-range missiles.

Only a universal renunciation of the missiles covered by MTCR could significantly reduce the armaments asymmetry between the missile "haves" and "have-nots". It could pave the way towards a general ban on all ballistic missiles--as proposed by President Reagan at the 1986 Reykjavik summit meeting--and on all nuclear-capable cruise missiles. Aircraft, the nuclear-weapon delivery vehicle that would still be left in the possession of states if the "zero missile" were realized, are more vulnerable than missiles. Before such an ambitious disarmament initiative could be contemplated, strict compliance with the multilateral treaties banning the proliferation of weapons of mass destruction would degrade the military utility of missiles as carriers of these weapons.

Can Nuclear Proliferation Be Stopped?

9. Recommendations

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Nuclear proliferation can be stopped if states live up to the recommendations listed below. Otherwise, certain states or groups of states could use the NPT withdrawal clause and leave the non-proliferation regime. They may do so even without a firm intention to “go nuclear”, but in order to demonstrate their disappointment and disapproval of the way the NPT is implemented or fails to be implemented.

- All parties to the NPT, including non-nuclear-weapon parties, should be explicitly prohibited from assisting non-parties, directly or indirectly, in the manufacture of nuclear weapons.
- All non-nuclear-weapon parties to the NPT should conclude comprehensive safeguards agreements with the IAEA. Rigorous export controls, uninterrupted monitoring, reinforcement of the physical protection of nuclear materials and direct access to all relevant information and locations are needed to conduct effective verification.
- No nuclear materials or equipment for civilian purposes should be supplied to a non-nuclear-weapon country, party or not party to the NPT, not accepting comprehensive safeguards and the Additional Protocol to these safeguards. Supplies of nuclear materials or equipment to nuclear-weapon States must also be subject to IAEA safeguards.
- Each party should have the right to ask for a special (challenge) inspection on the territory of another party suspected of non-compliance with the NPT.
- An international mechanism should be established to deal with complaints of non-compliance or allegations of breaches other than those related to IAEA safeguards.
- The “trilateral initiative” between Russia, the United States and the IAEA for the submission to safeguards of the fissile material no longer required for military purposes should be fully implemented.
- All agreements for the protection of nuclear material should be universally adhered to.
- Withdrawal of nuclear material from international control for non-explosive military purposes (such as propulsion) should be strictly circumscribed.

- The inalienable right of each state to use nuclear energy for peaceful purposes should be guaranteed, but the NPT provision allowing nuclear explosions for peaceful purposes should be declared null and void.
- The Comprehensive Test Ban Treaty should enter into force as quickly as possible; pending this event, a moratorium on all nuclear-weapon-test explosions should be observed.
- Negotiations for a treaty banning further production of fissile materials for weapon purposes should begin. The treaty ought to provide for, or be followed by, the establishment of a comprehensive, regularly updated global register of stocks of plutonium and highly enriched uranium.
- The Hague Code of Conduct concerning the control of missile technology should be joined by all missile-producing states and its proceedings should cease to be secretive. Its rules should be tightened and its restrictions made legally binding. An international body must be entrusted with monitoring compliance.
- Nuclear-weapon states should resume nuclear disarmament negotiations and devote special attention to tactical nuclear weapons posing high risks of nuclear war. They should also reconfirm their obligation to irreversibly eliminate all nuclear weapons from their arsenals.
- Withdrawal from the NPT should be prohibited or allowed only by a qualified majority of the parties under very restrictive conditions.
- The nuclear-weapon States should provide uniform, legally binding and unconditional assurances that they will never use nuclear weapons against non-nuclear-weapon parties to the NPT.
- The NPT should be treated as an internationally binding document valid both in time of peace and in time of war.

Can Nuclear Proliferation Be Stopped?

Appendices

Appendices

Treaty on the non-proliferation of nuclear weapons (Non-Proliferation Treaty, NPT)

Opened for signature at London, Moscow and Washington, DC, on 1 July 1968

Entered into force on 5 March 1970

Depositaries: UK, US and Russian governments

The States concluding this Treaty, hereinafter referred to as the “Parties to the Treaty”,

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to co-operate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States,

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in co-operation with other States to, the further development of the applications of atomic energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the co-operation of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a Treaty on general and complete disarmament under strict and effective international control,

Recalling that, in accordance with the Charter of the United Nations, States must refrain

in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

Have agreed as follows:

Article I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

Article II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

Article III

1. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfilment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this Article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this Article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. Each State Party to the Treaty undertakes not to provide: (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this Article.

3. The safeguards required by this Article shall be implemented in a manner designed to comply with Article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this Article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this Article either individually or together with other States in accordance with the Statute of the International Atomic

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Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

Article IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of

all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also co-operate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

Article V

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

Article VI

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

Article VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

Article VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and

all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realised. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

Article IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

...

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January, 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.

...

Source: *Treaty Series*, vol. 729 (1970) (United Nations: New York)

United Nations security council resolution 984 on security assurances

Adopted at New York on 11 April 1995

The Security Council,

Convinced that every effort must be made to avoid and avert the danger of nuclear war, to prevent the spread of nuclear weapons, to facilitate international cooperation in the peaceful uses of nuclear energy with particular emphasis on the needs of developing countries, and reaffirming the crucial importance of the Treaty on the Non-Proliferation of Nuclear Weapons to these efforts,

Recognizing the legitimate interest of non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to receive security assurances,

Welcoming the fact that more than 170 States have become Parties to the Treaty on the Non-Proliferation of Nuclear Weapons and stressing the desirability of universal adherence to it,

Reaffirming the need for all States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to comply fully with all their obligations,

Taking into consideration the legitimate concern of non-nuclear-weapon States that, in conjunction with their adherence to the Treaty on the Non-Proliferation of Nuclear Weapons, further appropriate measures be undertaken to safeguard their security,

Considering that the present resolution constitutes a step in this direction,

Considering further that, in accordance with the relevant provisions of the Charter of the United Nations, any aggression with the use of nuclear weapons would endanger international peace and security,

1. *Takes note* with appreciation of the statements made by each of the nuclear-weapon States (S/1995/261, S/1995/262, S/1995/263, S/1995/264, S/1995/265), in which they give security assurances against the use of nuclear weapons to non-nuclear-weapon States that are Parties to the Treaty on the Non-Proliferation of Nuclear Weapons;

2. *Recognizes* the legitimate interest of non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to receive assurances that the Security Council, and above all its nuclear-weapon State permanent members, will act immediately in accordance with the relevant provisions of the Charter of the United Nations, in the event that such States are the victim of an act of, or object of a threat of, aggression in which nuclear weapons are used;

3. *Recognizes further* that, in case of aggression with nuclear weapons or the threat of such aggression against a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, any State may bring the matter immediately to the attention of the Security Council to enable the Council to take urgent action to provide assistance, in accordance with the Charter, to the State victim of an act of, or object of a threat of, such aggression; and *recognizes also* that the nuclear-weapon State permanent members of the Security Council will bring the matter immediately to the attention of the Council and seek Council action to provide, in accordance with the Charter, the necessary assistance to the

State victim;

4. *Notes* the means available to it for assisting such a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, including an investigation into the situation and appropriate measures to settle the dispute and restore international peace and security;

5. *Invites* Member States, individually or collectively, if any non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons is a victim of an act of aggression with nuclear weapons, to take appropriate measures in response to a request from the victim for technical, medical, scientific or humanitarian assistance, and affirms its readiness to consider what measures are needed in this regard in the event of such an act of aggression;

6. *Expresses* its intention to recommend appropriate procedures, in response to any request from a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons that is the victim of such an act of aggression, regarding compensation under international law from the aggressor for loss, damage or injury sustained as a result of the aggression;

7. *Welcomes* the intention expressed by certain States that they will provide or support immediate assistance, in accordance with the Charter, to any non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons that is a victim of an act of, or an object of a threat of, aggression in which nuclear weapons are used;

8. *Urges* all States, as provided for in Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, to pursue negotiations in good faith on effective measures relating to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control which remains a universal goal;

9. *Reaffirms* the inherent right, recognized under Article 51 of the Charter, of individual and collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security;

10. *Underlines* that the issues raised in this resolution remain of continuing concern to the Council.

Source: United Nations document S/RES/984, 11 April 1995

Adopted unanimously

NPT review and extension conference decision on strengthening the review process for the NPT

Adopted at New York on 11 May 1995

1. The Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons examined the implementation of article VIII, paragraph 3, of the Treaty and agreed to strengthen the review process for the operation of the Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realized.

2. The States party to the Treaty participating in the Conference decided, in accordance with article VIII, paragraph 3, that Review Conferences should continue to be held every five years and that, accordingly, the next Review Conference should be held in the year 2000.

3. The Conference decided that, beginning in 1997, the Preparatory Committee should

hold, normally for a duration of 10 working days, a meeting in each of the three years prior to the Review Conference. If necessary, a fourth preparatory meeting may be held in the year of the Conference.

4. The purpose of the Preparatory Committee meetings would be to consider principles, objectives and ways in order to promote the full implementation of the Treaty, as well as its universality, and to make recommendations thereon to the Review Conference. These include those identified in the decision on principles and objectives for nuclear non-proliferation and disarmament, adopted on 11 May 1995. These meetings should also make the procedural preparations for the next Review Conference.

5. The Conference also concluded that the present structure of three Main Committees should continue and the question of an overlap of issues being discussed in more than one Committee should be resolved in the General Committee, which would coordinate the work of the Committees so that the substantive responsibility for the preparation of the report with respect to each specific issue is undertaken in only one Committee.

6. It was also agreed that subsidiary bodies could be established within the respective Main Committees for specific issues relevant to the Treaty, so as to provide for a focused consideration of such issues. The establishment of such subsidiary bodies would be recommended by the Preparatory Committee for each Review Conference in relation to the specific objectives of the Review Conference.

7. The Conference further agreed that Review Conferences should look forward as well as back. They should evaluate the results of the period they are reviewing, including the implementation of undertakings of the States parties under the Treaty, and identify the areas in which, and the means through which, further progress should be sought in the future. Review Conferences should also address specifically what might be done to strengthen the implementation of the Treaty and to achieve its universality.

Source: Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document, NPT/CONF.1995/32 (Part I), 1995

NPT review and extension conference decision on principles and objectives for nuclear non-proliferation and disarmament

Adopted at New York on 11 May 1995

The Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Reaffirming the preamble and articles of the Treaty on the Non-Proliferation of Nuclear Weapons,

Welcoming the end of the cold war, the ensuing easing of international tension and the strengthening of the trust between States,

Desiring a set of principles and objectives in accordance with which nuclear non-proliferation, nuclear disarmament and international cooperation in the peaceful uses of nuclear energy should be vigorously pursued and progress, achievements and shortcomings evaluated periodically within the review process provided for in article VIII, paragraph 3, of the Treaty, the enhancement and strengthening of which is welcomed,

Reiterating the ultimate goals of the complete elimination of nuclear weapons and a treaty

on general and complete disarmament under strict and effective international control,

The Conference affirms the need to continue to move with determination towards the full realization and effective implementation of the provisions of the Treaty, and accordingly adopts the following principles and objectives:

Universality

1. Universal adherence to the Treaty on the Non-Proliferation of Nuclear Weapons is an urgent priority. All States not yet party to the Treaty are called upon to accede to the Treaty at the earliest date, particularly those States that operate unsafeguarded nuclear facilities. Every effort should be made by all States parties to achieve this objective.

Non-proliferation

2. The proliferation of nuclear weapons would seriously increase the danger of nuclear war. The Treaty on the Non-Proliferation of Nuclear Weapons has a vital role to play in preventing the proliferation of nuclear weapons. Every effort should be made to implement the Treaty in all its aspects to prevent the proliferation of nuclear weapons and other nuclear explosive devices, without hampering the peaceful uses of nuclear energy by States parties to the Treaty.

Nuclear disarmament

3. Nuclear disarmament is substantially facilitated by the easing of international tension and the strengthening of trust between States which have prevailed following the end of the cold war. The undertakings with regard to nuclear disarmament as set out in the Treaty on the Non-Proliferation of Nuclear Weapons should thus be fulfilled with determination. In this regard, the nuclear-weapon States reaffirm their commitment, as stated in article VI, to pursue in good faith negotiations on effective measures relating to nuclear disarmament.

4. The achievement of the following measures is important in the full realization and effective implementation of article VI, including the programme of action as reflected below:

(a) The completion by the Conference on Disarmament of the negotiations on a universal and internationally and effectively verifiable Comprehensive Nuclear-Test-Ban Treaty no later than 1996. Pending the entry into force of a Comprehensive Test-Ban Treaty, the nuclear-weapon States should exercise utmost restraint;

(b) The immediate commencement and early conclusion of negotiations on a non-discriminatory and universally applicable convention banning the production of fissile material for nuclear weapons or other nuclear explosive devices, in accordance with the statement of the Special Coordinator of the Conference on Disarmament and the mandate contained therein;

(c) The determined pursuit by the nuclear-weapon States of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goals of eliminating those weapons, and by all States of general and complete disarmament under strict and effective international control.

Nuclear-weapon-free zones

5. The conviction that the establishment of internationally recognized nuclear-weapon-free zones, on the basis of arrangements freely arrived at among the States of the region concerned, enhances global and regional peace and security is reaffirmed.

6. The development of nuclear-weapon-free zones, especially in regions of tension, such as in the Middle East, as well as the establishment of zones free of all weapons of mass

destruction, should be encouraged as a matter of priority, taking into account the specific characteristics of each region. The establishment of additional nuclear-weapon-free zones by the time of the Review Conference in the year 2000 would be welcome.

7. The cooperation of all the nuclear-weapon States and their respect and support for the relevant protocols is necessary for the maximum effectiveness of such nuclear-weapon-free zones and the relevant protocols.

Security assurances

8. Noting United Nations Security Council resolution 984 (1995), which was adopted unanimously on 11 April 1995, as well as the declarations by the nuclear-weapon States concerning both negative and positive security assurances, further steps should be considered to assure non-nuclear-weapon States party to the Treaty against the use or threat of use of nuclear weapons. These steps could take the form of an internationally legally binding instrument.

Safeguards

9. The International Atomic Energy Agency is the competent authority responsible to verify and assure, in accordance with the statute of the Agency and the Agency's safeguards system, compliance with its safeguards agreements with States parties undertaken in fulfilment of their obligations under article III, paragraph 1, of the Treaty, with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Nothing should be done to undermine the authority of the International Atomic Energy Agency in this regard. States parties that have concerns regarding non-compliance with the safeguards agreements of the Treaty by the States parties should direct such concerns, along with supporting evidence and information, to the Agency to consider, investigate, draw conclusions and decide on necessary actions in accordance with its mandate.

10. All States parties required by article III of the Treaty to sign and bring into force comprehensive safeguards agreements and which have not yet done so should do so without delay.

11. International Atomic Energy Agency safeguards should be regularly assessed and evaluated. Decisions adopted by its Board of Governors aimed at further strengthening the effectiveness of Agency safeguards should be supported and implemented and the Agency's capability to detect undeclared nuclear activities should be increased. Also, States not party to the Treaty on the Non-Proliferation of Nuclear Weapons should be urged to enter into comprehensive safeguards agreements with the Agency.

12. New supply arrangements for the transfer of source or special fissionable material or equipment or material especially designed or prepared for the processing, use or production of special fissionable material to non-nuclear-weapon States should require, as a necessary precondition, acceptance of IAEA full-scope safeguards and internationally legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices.

13. Nuclear fissile material transferred from military use to peaceful nuclear activities should, as soon as practicable, be placed under Agency safeguards in the framework of the voluntary safeguards agreements in place with the nuclear-weapon States. Safeguards should be universally applied once the complete elimination of nuclear weapons has been achieved.

Peaceful uses of nuclear energy

14. Particular importance should be attached to ensuring the exercise of the inalienable right of all the parties to the Treaty to develop research, production and use of nuclear energy

for peaceful purposes without discrimination and in conformity with articles I, II as well as III of the Treaty.

15. Undertakings to facilitate participation in the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy should be fully implemented.

16. In all activities designed to promote the peaceful uses of nuclear energy, preferential treatment should be given to the non-nuclear-weapon States party to the Treaty, taking the needs of developing countries particularly into account.

17. Transparency in nuclear-related export controls should be promoted within the framework of dialogue and cooperation among all interested States party to the Treaty.

18. All States should, through rigorous national measures and international cooperation, maintain the highest practicable levels of nuclear safety, including in waste management, and observe standards and guidelines in nuclear materials accounting, physical protection and transport of nuclear materials.

19. Every effort should be made to ensure that the International Atomic Energy Agency has the financial and human resources necessary in order to meet effectively its responsibilities in the areas of technical cooperation, safeguards and nuclear safety. The Agency should also be encouraged to intensify its efforts aimed at finding ways and means for funding technical assistance through predictable and assured resources.

20. Attacks or threats of attack on nuclear facilities devoted to peaceful purposes jeopardize nuclear safety and raise serious concerns regarding the application of international law on the use of force in such cases, which could warrant appropriate action in accordance with the provisions of the Charter of the United Nations.

The Conference requests that the President of the Conference bring the present decision, the decision on strengthening the review process of the treaty and the decision on the extension of the Treaty on the Non-Proliferation of Nuclear Weapons, to the attention of the heads of State or Government of all States and seek their full cooperation on these documents and in the furtherance of the goals of the Treaty.

Source: Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document, NPT/CONF.1995/32 (Part I), 1995

NPT review and extension conference decision on extension of the Non-Proliferation Treaty

Adopted at New York on 11 May 1995

The Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear weapons,

Having convened in New York from 17 April to 12 May 1995, in accordance with article VIII, paragraph 3, and article X, paragraph 2, of the Treaty on the Non-Proliferation of Nuclear Weapons,

Having reviewed the operation of the Treaty and affirming that there is a need for full compliance with the Treaty, its extension and its universal adherence, which are essential to international peace and security and the attainment of the ultimate goals of the complete elimination of nuclear weapons and a treaty on general and complete disarmament under strict and effective international control,

Having reaffirmed article VIII, paragraph 3, of the Treaty and the need for its continued implementation in a strengthened manner and, to this end, emphasizing the decision on strengthening the review process for the Treaty and the decision on principles and objectives for nuclear non-proliferation and disarmament, also adopted by the Conference,

Having established that the Conference is quorate in accordance with article X, paragraph 2, of the Treaty,

Decides that, as a majority exists among States party to the Treaty for its indefinite extension, in accordance with its article X, paragraph 2, the Treaty shall continue in force indefinitely.

Source: Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document, NPT/CONF.1995/32 (Part I), 1995

NPT review and extension conference resolution on the Middle East

Adopted at New York on 11 May 1995

The Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Reaffirming the purpose and provisions of the Treaty on the Non-Proliferation of Nuclear Weapons,

Recognizing that, pursuant to article VII of the Treaty, the establishment of nuclear-weapon-free zones contributes to strengthening the international non-proliferation regime,

Recalling that the Security Council, in its statement of 31 January 1992,^a affirmed that the proliferation of nuclear and all other weapons of mass destruction constituted a threat to international peace and security,

Recalling also General Assembly resolutions adopted by consensus supporting the establishment of a nuclear-weapon-free zone in the Middle East, the latest of which is resolution 49/71 of 15 December 1994,

Recalling further the relevant resolutions adopted by the General Conference of the International Atomic Energy Agency concerning the application of Agency safeguards in the Middle East, the latest of which is GC(XXXVIII)/RES/21 of 23 September 1994, and noting the danger of nuclear proliferation, especially in areas of tension,

Bearing in mind Security Council resolution 687 (1991) and in particular paragraph 14 thereof,

Noting Security Council resolution 984 (1995) and paragraph 8 of the decision on principles and objectives for nuclear non-proliferation and disarmament adopted by the Conference on 11 May 1995,

Bearing in mind the other decisions adopted by the Conference on 11 May 1995,

1. *Endorses* the aims and objectives of the Middle East peace process and recognizes that efforts in this regard, as well as other efforts, contribute to, inter alia, a Middle East zone free of nuclear weapons as well as other weapons of mass destruction;

^a S/23500.

2. *Notes with satisfaction* that, in its report (NPT/CONF.1995/MC.III/1), Main Committee III of the Conference recommended that the Conference “call on those remaining States not parties to the Treaty to accede to it, thereby accepting an international legally binding commitment not to acquire nuclear weapons or nuclear explosive devices and to accept International Atomic Energy Agency safeguards on all their nuclear activities”;

3. *Notes with concern* the continued existence in the Middle East of unsafeguarded nuclear facilities, and reaffirms in this connection the recommendation contained in section VI, paragraph 3, of the report of Main Committee III urging those non-parties to the Treaty on the Non-Proliferation of Nuclear Weapons that operate unsafeguarded nuclear facilities to accept full-scope International Atomic Energy Agency safeguards;

4. *Reaffirms* the importance of the early realization of universal adherence to the Treaty, and calls upon all States of the Middle East that have not yet done so, without exception, to accede to the Treaty as soon as possible and to place their nuclear facilities under full-scope International Atomic Energy Agency safeguards;

5. *Calls upon* all States in the Middle East to take practical steps in appropriate forums aimed at making progress towards, inter alia, the establishment of an effectively verifiable Middle East zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems, and to refrain from taking any measures that preclude the achievement of this objective;

6. *Calls upon* all States party to the Treaty on the Non-Proliferation of Nuclear Weapons, and in particular the nuclear-weapon States, to extend their cooperation and to exert their utmost efforts with a view to ensuring the early establishment by regional parties of a Middle East zone free of nuclear and all other weapons of mass destruction and their delivery systems.

Source: Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document, NPT/CONF.1995/32 (Part I), 1995